

Revenue Review

Tennessee Department of Revenue

REVENUE ...
Working For You



July 2007

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Contact Us:

Tennessee Department of Revenue
Attn: Taxpayer and Vehicle Services
500 Deaderick Street
Nashville, TN 37242
(615) 253-0600
Statewide toll-free:
(800) 342-1003

2007 Legislative Changes

The Department of Revenue tracked more than 250 bills during the 2007 legislative session. Numerous tax laws as well as motor vehicle title and registration laws were amended this session by the General Assembly. A complete Legislative Summary listing will soon be available on the department's Web site at www.Tennessee.gov/revenue. Until then, summaries of broader interest are included below. Copies of the public chapters can be found at www.state.tn.us/sos as they become available.

Changes in Tax Rates and Tax Holidays

► Sales Tax on Food and Food Ingredients

Public Chapter 600 reduces the sales tax on food and food ingredients from 6% to 5.5%. Prepared food, alcoholic beverages, candy, dietary supplements and tobacco remain subject to sales tax at the rate of 7%. *Effective date: January 1, 2008.*

► Sales Tax Holiday

Public Chapter 534 adds school art supplies with a sales price of \$100 or less to the list of items that are exempt during a sales tax holiday. "School art supplies" are defined as: clay and glazes; paints, acrylic, tempera and oil; paintbrushes for artwork; sketch and drawing pads; and watercolors. *Effective date: Upon becoming law.*

Public Chapter 600 adds a new, one-time sales tax holiday beginning at 12:01 a.m. on Friday, March 21, 2008 and ending at 11:59 p.m. on Sunday, March 23, 2008. This additional sales tax holiday applies to the following items, which are also exempt during the annual sales tax holiday occurring on the first weekend of August: (1) clothing with a sales price of \$100 or less; (2) school supplies and school art supplies with a sales price of \$100 or less; and (3) computers with a sales price of \$1,500 or less. *Effective date: Upon becoming law.*

► Cigarette Tax

Public Chapter 368 increases the tax on cigarettes from 20¢ to 62¢ per pack. Proceeds resulting from the increase are earmarked for funding education, agricultural enhancement and trauma centers in Tennessee. *Effective date: July 1, 2007.*

► Tire Pre-Disposal Fee

Public Chapter 602 increases the pre-disposal fee imposed on the sale of new tires from \$1 to \$1.35 per

tire, which is the first increase since the fee was enacted in 1991. Proceeds from the tire pre-disposal fee are distributed to counties to help offset the expense of recycling and disposing of used tires. The bill also imposes a 50% penalty on dealers who underreport sales that are subject to this fee. *Effective date: October 1, 2007.*

Franchise and Excise Tax Legislation

► Industrial Machinery Credit

Public Chapter 602 revises Tennessee's economic development tax incentives by providing tiers of industrial machinery credit based on the level of Tennessee investment. The act establishes tiered criteria and benefits for the credit. If the taxpayer makes a required capital investment in excess of \$1,000,000,000 during the investment period, the credit allowed equals 10% of the purchase price of industrial machinery located in Tennessee and purchased in the process of making the required capital investment. If the taxpayer makes a required capital investment in excess of \$500,000,000 during the investment period, the credit allowed equals 7%. If the taxpayer makes a required capital investment in excess of \$250,000,000 during the investment period, the credit allowed equals 5%. If the taxpayer makes a capital investment in excess of \$100,000,000 during the investment period, the credit allowed equals 3%. The investment period during which the required capital investment must be made cannot exceed three years from the filing of the business plan related to the required capital investment. The three-year period for making the required capital investment may be extended by the Commissioner of Economic and Community Development for a reasonable period, not to exceed two years, for good cause shown. *Effective date: Upon becoming law.*

► Job Tax Credit

Public Chapter 602 modifies the job tax credit by establishing a credit for a qualified business enterprise that involves a required capital investment of \$10,000,000 and the creation of at least 100 net new full-time headquarters staff employee jobs that pay at least 150% of Tennessee's average occupational wage. The credit allowed is \$5,000 for each net new full-time headquarters staff employee job created during the investment period. An additional credit is allowed on an annual basis for a period of three years, beginning with the first tax year after the investment and job threshold criteria are met. The additional credit equals \$5,000 for each job created during the investment period, provided that the jobs remain filled by employees, at wages equal to or greater than 150% of Tennessee's average occupational wage for the month of January of the year in which the credit is being taken. This annual credit may be used to offset up to 100% of the taxpayer's franchise and excise tax liability for that year, but any unused annual credit will not be carried

2007 Legislative Changes, cont.

forward beyond the year in which the credit originated. *Effective date: Upon becoming law.*

➤ Job Tax Credit and Tiers of Economically Distressed Counties

Public Chapter 602 modifies the job tax credit by providing that the Department of Economic and Community Development shall designate each county determined to be economically distressed as a tier one, tier two or tier three economically distressed county. Such designation shall be based on unemployment, per capita income and poverty levels. A list of counties designated by tiers will be published annually. A qualified business enterprise located in a tier one, two or three economically distressed county will receive a \$4,500 credit for each net new full-time employee job. A qualified business enterprise located in a tier two county will receive an additional annual credit of \$4,500 for each net new full-time employee job, and the annual credit shall be allowed for a period of three years, beginning with the first tax year after the initial job tax credit is created. A qualified business enterprise located in a tier three county will receive an additional annual credit of \$4,500 for each net new full-time employee job, and the annual credit shall be allowed for a period of five years, beginning with the first tax year after the initial job tax credit is created. The annual credit may be used to offset up to 100% of the franchise and excise tax liability, but it may not be carried forward beyond the year in which the credit originated. *Effective date: Upon becoming law.*

➤ Headquarters Relocation Credit

Public Chapter 602 revises Tennessee's economic development tax incentives by providing tiered levels of headquarters relocation credits based on the level of Tennessee job creation. The credit is equal to any qualified headquarters facility relocation expenses incurred by the taxpayer during the investment period for establishing a qualified headquarters facility, but is limited to a specified dollar amount (based on the number of jobs created) multiplied by the number of headquarters staff employee positions relocated by the taxpayer. *Effective date: Upon becoming law.*

➤ Tennessee Rural Opportunity Fund Credit

Public Chapter 602 creates a credit in an amount equal to 10% of a financial institution's contribution to the Tennessee Rural Opportunity Fund. The credit is allowed each year for a period of 10 years, beginning with the tax year in which the contribution is made. Any unused credit cannot be carried forward beyond the tax year in which the credit originated. The loaning of funds by the taxpayer to the Tennessee Rural Opportunity Fund shall constitute a contribution. However, at the close of the tenth year of the period during which the credit is allowed the taxpayer must forgive the loan or the credit plus interest will be recaptured. *Effective date: Upon becoming law.*

➤ Excise Tax and S Corporations

Public Chapter 602 closes a loophole that allowed an S corporation that made an election under Section 338(h)(10) of the Internal Revenue Code to treat a sale of its stock as an asset sale, without including the resulting gain or loss in its Tennessee net earnings. The S corporation is now required to include in net earnings or loss any

gain or loss attributable to the Section 338(h)(10) election. *Effective date: October 1, 2007, applying to all transaction occurring on or after that date.*

➤ Recognition of Gain on Assets Having a Higher Tennessee Basis

Public Chapter 602 provides, for Tennessee excise tax purposes, that a company must recognize gain or loss on the sale of an asset based on the asset's federal tax basis without any adjustment as a result of the taxpayer not having been subject to Tennessee excise tax during any portion of the period during which the taxpayer took depreciation expense on the asset for federal income tax purposes. *Effective date: Upon becoming law.*

Sales and Use Tax Legislation

➤ Streamlined Sales and Use Tax

Public Chapter 357 enacted in 2003 and Public Chapter 959 enacted in 2004 made numerous changes to the Retailers' Sales Tax Act to bring Tennessee into compliance with the national streamlined sales and use tax project. Those changes were scheduled to become effective on July 1, 2007. Public Chapter 602 delays the effective date of those changes. The following provisions will become effective on January 1, 2008: 1) most of the streamlined sales tax uniform definitions; 2) provisions concerning the registration of farmers for sales tax exemption purposes; 3) provisions concerning the optional centralized registration system; and 4) provisions concerning the optional use of certified service providers or certified automated systems for sales tax collection and remittance. In contrast, the following provisions will become effective on July 1, 2009: 1) the requirement that sales delivered or shipped to the customer be sourced to the delivery or shipping destination; 2) modifications to the single article limitation on local option sales taxes; 3) use of a single return covering multiple dealer locations; and 4) implementation of certain privilege taxes in lieu of sales tax. *Effective dates: January 1, 2008 and July 1, 2009.*

➤ Headquarters Facility Credit

Public Chapter 602 applies the existing sales tax headquarters credit to projects involving an investment of \$10,000,000 in a new, expanded or remodeled building along with the creation of at least 100 new full-time headquarters staff employee jobs that pay at least 150% of Tennessee's average occupational wage. *Effective date: Upon becoming law.*

➤ Data Centers – Industrial Machinery and Electricity

Public Chapter 602 expands the industrial machinery exemption to include computer systems, computer networks, software and related peripheral devices when such equipment is used in the operation of a qualified data center. A qualified data center is a newly constructed, expanded or remodeled building or buildings that house high-tech computer systems and involve a required capital investment in excess of \$250,000,000 during a 3-year period along with the creation of at least 25 net new full-time employee jobs that pay at least 150% of Tennessee's average occupational wage. The bill also applies a reduced sales tax rate of 1.5% on purchases of electricity by a qualified data center. *Effective date: Upon becoming law.*

2007 Legislative Changes, cont.

➤ Exemption for Vehicles Sold to Military Personnel

Public Chapter 602 rewrites and expands the sales tax exemption applicable to motor vehicles purchased by members of the military. The exemption now applies to any active member of the United States Army, Navy, Air Force, Marines, Coast Guard or any member of the active guard and reserve program (AGR) who is stationed anywhere in Tennessee or anywhere on the Fort Campbell base. The exemption also applies to a member of the Tennessee national guard or a reservist who has been called to active duty and stationed in a combat zone, with such exemption beginning on the effective date of orders assigning the individual to the combat zone and ending 90 days after the effective date of orders releasing the individual from the combat zone. *Effective date: Upon becoming law.*

➤ Motor Vehicle Manufacturer's Incentive Payments

Public Chapter 602 removes motor vehicle manufacturer's incentive payments from the "sales price" of a motor vehicle for purposes of calculating sales tax. *Effective date: Applies to sales and use tax assessments made on or after January 1, 2004.*

➤ Energy for Residential Use

Public Chapter 602 clarifies that propane sold over the counter at the location of the seller in small portable tanks is subject to sales tax regardless of use. However, propane sold over the counter in cylinders with a capacity of 100 pounds or more is exempt from sales tax if documentation is presented to show that the propane is purchased for residential use. *Effective date: Upon becoming law.*

➤ Electronic Filing

Public Chapter 602 lowers the threshold for mandatory electronic filing of sales tax returns and electronic payment of the tax due. In 2002, it became mandatory to file sales and use tax returns electronically if a taxpayer was required to pay its sales and use tax in readily available funds. Electronic filing of these returns has reduced errors and lowered processing costs. Under this bill, the requirement to file sales and use tax returns electronically and pay in readily available funds applies to any taxpayer whose average monthly tax liability is \$2,500 or more. The Commissioner has authority to waive these electronic payment and filing requirements in extenuating circumstances. *Effective date: Upon implementation by the Commissioner.*

Beginning August 1st, the Department of Revenue will offer payment warehousing for sales and use taxes. This feature will allow taxpayers to file a return upon its completion while delaying the accompanying payment until it is due.

Refund Legislation

➤ Public Chapter 602 modifies the time period in which a taxpayer can file a lawsuit to challenge the denial of a refund claim. Under prior law, suit had to be filed within six months after the denial or deemed denial of the refund claim (the claim is deemed denied if the Department has taken no action on the claim within six months of the date filed). Following this change in the law, suit must be filed within one year after the date the refund claim is filed. The earliest point in which suit can be filed remains the date that the refund is denied or deemed denied. *Effective date: Upon becoming law.*

Title and Registration Legislation

➤ Trailers and Semi Trailers

Public Chapter 142 allows the registration of any privately owned trailer or semi trailer that is not required to be registered but which the owner desires to be registered. The act also allows persons registering such trailers and semi trailers to obtain personalized plates. The act further directs that proceeds received from the sale of personalized trailer plates be expended for the development and maintenance of public horseback riding trails. *Effective date: July 1, 2007.*

➤ Military Plates

Public Chapter 484 provides that retired or honorably discharged members of the military are required to submit documentation of their status only upon initially applying for military license plates and not upon subsequent renewals. *Effective date: July 1, 2007.*

➤ Certificate of Title

Public Chapter 484 provides that an application for certificate of title submitted by a licensed motor vehicle dealer can, in lieu of a signature, be accompanied by a power of attorney granting the motor vehicle dealer authority to sign the application on behalf of the owner. *Effective date: July 1, 2007.*

Department of Revenue Adds Credit Card Payment Option For Individual Income Tax To Expanding List of Electronic Services

The Department of Revenue now accepts credit card payments for the individual income tax. Credit card payment and electronic filing options are available on the department's Web site, www.Tennessee.gov/revenue. Like Revenue's other electronic applications, this option is convenient, easy and accurate.

"Electronic tax administration is a mutually beneficial way to collect taxes; it improves our agency's operational efficiency and provides an easier and faster filing alternative to our customers," said Revenue Commissioner Reagan Farr.

MasterCard, American Express and Discover Card are accepted and charged an associated 2.49 percent processing fee. Online bill pay, professional privilege tax and consumer use tax can also be paid by credit card via the Department's Web site. The Department is continuing work to add this convenient payment option to other online tax filing applications.

The Hall income tax is imposed on individuals and other entities receiving interest from bonds and notes and dividends from stock. The rate is six percent of taxable income. A few exemptions exist. The first \$1,250 in taxable income received by a single filer is exempt. The first \$2,500 in taxable income received by a joint filer is exempt. People over 65 with total income less than \$16,200 for a single filer or \$27,000 for a joint filer are exempt.

In order to assist its customers with electronic filing, the Department of Revenue provides free computer access at its offices in Chattanooga, Knoxville, Jackson, Johnson City, Memphis and Nashville.

Revenue Review

www.Tennessee.gov/revenue

Second Annual Sales Tax Holiday is Approaching



www.tntaxholiday.com


Tennessee's second annual sales tax holiday begins Friday, Aug. 3 at 12:01 a.m. and ends at 11:59 p.m. on Sunday, Aug. 5. During the holiday, the following items are exempt from sales and use tax: 1) clothing with a price of \$100 or less per item; 2) school supplies with a price of \$100 or less per item; 3) computers with a price of \$1,500 or less per item; and 4) art supplies with a price of \$100 or less per item.

The inaugural sales tax holiday in Aug. of 2006 saved consumers approximately \$15 million across the state. Although the savings to Tennesseans are still being totaled from the special one-time holiday in April 2007, the department is optimistic that Tennessee families participated in equal or greater numbers during the April holiday.

The Sales and Use Tax Return was revised to accommodate Tennessee's first annual sales tax holiday. Retailers selling items exempt from tax during the holiday are required to report their exempt sales on Schedule A, Line J of their sales and use tax return.

All other items previously reported on Schedule A, Line J should have been reported on Schedule A, Line C.

In preparation for this year's tax holiday, please take note of the language for the revised exempt transaction schedule A, line J:

J.  Sales Tax Holiday (Aug. 3-5, 2007, and April 27-29, 2007)

The state reimburses local governments for lost sales tax revenue to ensure that local governments are not negatively impacted by the sales tax holidays. Please remember to enter information accurately to ensure that local governments are reimbursed correctly.

Please contact the Revenue Call Center with any questions about the change in sales and use tax reporting. Tennessee residents outside the Nashville calling area may call our statewide toll-free number at (800) 342-1003. Callers from Nashville or out-of-state may call (615) 253-0600.

Comprehensive lists of exempt items, frequently asked questions and other information on the annual sales tax holiday can be found at www.tntaxholiday.com. More information can also be obtained by calling (800) 342-1003 or e-mailing Salestax.holiday@state.tn.us.

Online Sales Tax Filing Statistics

| Month | Number of Returns | Total of Amount Collected |
|---------------|-------------------|---------------------------|
| February 2007 | 21,980 | \$276,912,159 |
| March 2007 | 22,149 | \$274,609,424 |
| April 2007 | 24,071 | \$332,040,432 |

Save the Date: Upcoming Seminars and New Business Workshops (NBW) Across the State

July

July 11 – NBW, Chattanooga, 8:30 a.m. – 1:15 p.m.

July 12 – NBW, Johnson City, 8:30 a.m. – 11:45 a.m.

July 12 – NBW, Memphis, 9 a.m. – noon

July 18 – NBW, Knoxville, 8:30 a.m. – 12:30 p.m.

July 19 – Tennessee Business Taxes, UT Chattanooga - Raccoon Mountain Room, Chattanooga, 8:15 a.m. – 5 p.m.

July 24 – NBW, Nashville, 9 a.m. – 12:45 p.m.

July 31 – Tennessee Business Taxes, Doubletree Hotel - MTSU, Murfreesboro, 8:15 a.m. – 5 p.m.

August

Aug. 23 – 2007 Business Tax Update, Tennessee Chamber of Commerce & Industry, Doubletree Hotel, Nashville, 8 a.m. – 5 p.m.

Aug. 23 – 2007 Business Tax Seminar (Association of Government Accountants), Bartlett Performing Arts and Conference Center, Bartlett, 8:15 a.m. – 5 p.m.

September

Sept. 5 – Tennessee Business Taxes, The Centre at Millennium Park (East Tennessee State University), Johnson City, 8:15 a.m. – 5 p.m.

Sept. 11 – Tennessee Business Taxes, Austin Peay State University, Morgan University Center, Clarksville, 8:15 a.m. – 5 p.m.

Sept. 12 – NBW, Chattanooga, 8:30 a.m. – 1:15 p.m.

Sept. 13 – Tennessee Business Tax, University of Tennessee, UT Conference Center, Knoxville, 8:15 a.m. – 5 p.m.

Sept. 13 – NBW, Johnson City, 8:30 a.m. – 11:45 a.m.

Sept. 13 – NBW, Memphis, 9 a.m. – noon

Sept. 19 – NBW, Knoxville, 8:30 a.m. – 12:30 p.m.

Sept. 25 – 2007 Business Tax Seminar (Association of Government Accountants), Nashville, 8:15 a.m. – 5 p.m.

Sept. 25 – NBW, Nashville, 9 a.m. – 12:45 p.m.

Contact Us

- Taxpayer Services hot line: Statewide toll-free (800) 342-1003; Nashville-area and out-of-state callers should call (615) 253-0600.
- Vehicle Services hot line: Statewide toll-free (888) 871-3171; Nashville-area and out-of-state callers should call (615) 741-3101.
- Online tax help by e-mailing TN.Revenue@state.tn.us.
- Streamlined Sales Tax hot line: In Tennessee, call (877) 250-2299. In Nashville and outside Tennessee, call (615) 253-0752.
- Streamlined Sales Tax online assistance by e-mailing Streamlined.Salestax.QandA@state.tn.us.
- Tax practitioner hot line: Statewide toll-free (800) 387-8395; Nashville-area and out-of-state callers should call (615) 253-0700.
- Local government hot line: (866) 562-2549.
- E-mail updates: Visit our Web site, www.Tennessee.gov/revenue, to subscribe.
- Electronic commerce hot line: Statewide toll-free: (866) 368-6374.
- Nashville-area and out-of-state callers should dial (615) 253-0704.
- Speakers bureau: (615) 532-4975.
- Tax fraud hot line: To report tax fraud, call (800) FRAUDTX (372-8389).



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